

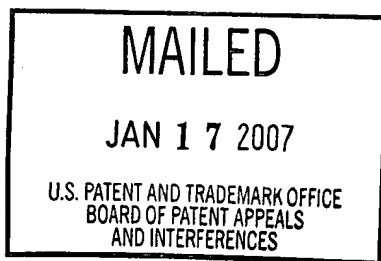
The opinion in support of the decision being entered today was *not* written for publication in and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRIAN SIEGEL

Appeal 2006-2537
Application 09/650,034
Technology Center 1700



ON BRIEF

Decided: January 17, 2007

Before OWENS, LEVY, and FETTING, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 1 through 15, 17 through 28, 30 and 39 through 44, the only claims pending and under consideration in this application. Claims 16, 29, 31 through 38 and 45 through 57 have been withdrawn from consideration. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 134.

We REVERSE.

BACKGROUND

The appellant's invention relates to a method to electronically track personal credit information accumulated by automatically capturing information from online transactions. (Spec 1). An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A computer-implemented method of tracking online credit card usage by a user of a general purpose personal computing device operating as an Internet communication device, comprising:

monitoring entries made on personal computing device using a computer program that operates as a background process running on the personal computing device while a foreground process is also carried out on the personal computing device;

wherein the foreground process comprises an Internet communication process in which an online credit card transaction is being carried out by entry of information into a web page;

the computer program recognizing instances of the credit card transaction in the entries made on the personal computing device by recognition of a credit card number in the entries made into the web page; and

upon recognizing an instance of a credit card transaction and receiving verification of the instance of the credit card transaction, the background process automatically populating the web page with data stored in a user profile, and storing information describing the credit card transaction in a database accessible and controlled by the personal computing device.

PRIOR ART

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Boesch	US 6,092,053	Jul. 18, 2000 (Oct. 7, 1998)
Wong	US 6,119,933	Sep. 19, 2000 (Jul. 16, 1998)

REJECTION

Claims 1 through 15, 17 through 28, 30 and 39 through 44 stand rejected under 35 U.S.C. § 103(a) as obvious over Boesch and Wong.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the examiner's answer (mailed Dec. 13, 2005) for the reasoning in support of the rejection, and to appellant's brief (filed Jun. 27, 2005) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations that follow.

Claims 1 through 15, 17 through 28, 30 and 39 through 44 rejected under 35 U.S.C. § 103(a) as obvious over Boesch and Wong.

We note that the appellant argue these claims as a group. Accordingly, we select claim 1 as representative of the group.

The examiner applies Wong to the claim limitations pertaining to tracking on-line credit card usage with a background process while some other program is operating in the foreground. The examiner applies Boesch to the claim limitations pertaining to a point-of-sale computing device. (Answer 3-5).

The appellant argues primarily that Wong does not describe or suggest a background process that both recognizes an instance of a credit card transaction and receives verification of the instance of the credit card transaction by recognizing a credit card number within data entry. (Br. 9-10). The examiner responds that both recognition and verification are inherent in the authorization described by Wong.

We find this argument rather curious given that no instance of the word “authorize” and indeed, no word beginning with the prefix “authoriz-,” appears in Wong. The examiner elaborates that he has construed the terms “detection” and “monitoring” broadly. But we again find the argument curious in that it fails to respond to the appellant’s argument that Wong does not recognize a credit card transaction by recognizing a credit card number in the entries within a background process.

While Wong clearly describes a credit card reader, “[t]his POS device may include a magnetic card reader for reading a magnetic stripe on a credit card or other customer loyalty card” (col. 1 lines 23-24), and a person of ordinary skill in

the art would recognize that a magnetic card reader operates in background, the same person of ordinary skill in the art would know that such a reader would detect any input string coming from the reader, and would not ascribe any further intelligence for discerning meaning within the string within the background process absent a specific teaching to that effect. Essentially, a credit card reader is an input device that receives a data string from a magnetic bar code and stuffs that string into the keyboard buffer, and therefore discerns no more meaning to an input string than does a keyboard.

The claimed subject matter specifies that the background process executes the step of “recognizing instances of the credit card transaction [] by recognition of a credit card number in the entries made into the web page.” (Claim 1). There is no description or suggestion in Wong of a background process that parses the string of data entered to discern a credit card number and that also interprets the finding of such a number as a signal that a credit card transaction is occurring. To the contrary, the degree of management of the process performed by the foreground in Wong would suggest that such interpretation of credit card data strings would also be part of the foreground process. (see, e.g., “Member Transactions”, col. 5-6). While it is imaginable that additional intelligence could be added to a background process to do everything in the claimed subject matter, there is no suggestion in the record, other than the appellant’s own specification, to do so. Certainly, the examiner has provided no evidence to support his argument that these features are inherent. Therefore, we find the examiner's arguments to be unpersuasive and that he has failed to provide a *prima facie* case.

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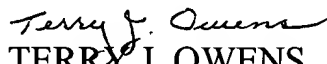
Accordingly we do not sustain the examiner's rejection of claims 1 through 15, 17 through 28, 30 and 39 through 44 under 35 U.S.C. § 103(a) as obvious over Boesch and Wong.


CONCLUSION

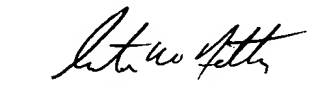
To summarize,

- The rejection of claims 1 through 15, 17 through 28, 30 and 39 through 44 under 35 U.S.C. § 103(a) as obvious over Boesch and Wong is not sustained.

REVERSED


TERRY J. OWENS
Administrative Patent Judge


STUART S. LEVY
Administrative Patent Judge


ANTON W. FETTING
Administrative Patent Judge

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